

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

JOSE R. BARRERA,

Plaintiff,

v.

DAVID WINN, ET AL.,

Defendants.

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C.A. No. 05-40107-RWZ

DEFENDANTS' MOTION TO DISMISS

Defendants in the above-captioned matter respectfully move to dismiss the Complaint pursuant to Fed. R. Civ. P. 12(b)(1), for lack of subject matter jurisdiction. In support of this Motion, Defendants previously submitted a Memorandum of Law in Support of Defendants' Motion to Dismiss on August 12, 2005.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/ Damian W. Wilmot
DAMIAN W. WILMOT
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Dated: September 15, 2005

CERTIFICATE OF SERVICE

I certify that on September 15, 2005, I caused a copy of the foregoing Motion to be served on Plaintiff by first class mail, postage pre-paid to Jose R. Barrerra, Reg. No. 57833-053, FMC Devens, P.O. Box 879, Ayer, MA 01432.

/s/ Damian W. Wilmot
DAMIAN W. WILMOT
Assistant U.S. Attorney